

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

|                          |   |   |
|--------------------------|---|---|
| UNITED STATES OF AMERICA | : | DATE FILED:   |
| v.                       | : | CRIMINAL NUMBER   |
| BRIAN PETTIT             | : | CHARGES: 18 U.S.C. § 371 (Conspiracy) - 1 count; 18 U.S.C. § 2320 (Trafficking in goods bearing counterfeit marks) - 7 counts |

INDICTMENT

Count One

The Grand Jury Charges:

1. At all times material to this indictment, the defendant BRIAN PETTIT owned a business known as Energy Star Systems, located at 198 North Pine Street, Langhorne, Pennsylvania. Energy Star Systems was in the business of selling and repairing computers and of selling peripheral equipment and software for computers.

2. A trademark is any work, symbol or device, or any combination used to identify the goods of a manufacturer or merchant. One of the reasons that a person registers a trademark is to protect against the sale of someone else's product as the product of the person who owns the trademark. Hereafter, the term trademark and the term "mark" will be used interchangeably.

3. From in or about July 1999 up to and including on or about September 19, 2002, in the Eastern District of Pennsylvania and elsewhere, the defendant

BRIAN PETTIT

knowingly and intentionally conspired and agreed with other persons, who are known and unknown to the grand jury, to commit offenses against the United States, namely, the trafficking in goods bearing counterfeit marks, in violation of Title 18, United States Code, Section 2320.

How the conspiracy worked

4. It was part of this conspiracy that through his business and using his employees in that business, the defendant BRIAN PETTIT purchased and sold software, such as products manufactured by Microsoft and Symantec, which had been copied by other businesses without the permission of the manufacturer.

5. It was part of this conspiracy that the defendant BRIAN PETTIT obtained illegally copied compact discs (CDs) containing the Microsoft and Symantec software at a price substantially less than he would have had to pay to obtain legitimate copies.

6. It was further part of the scheme that the defendant BRIAN PETTIT then sold this software to customers, some of whom were aware that they were buying an illegally copied product, thereby making a large profit.

7. It was further part of the scheme that the defendant BRIAN PETTIT sold the counterfeit software with labels and packaging, bearing what purported to be legitimate trademarks, to make it appear that the software was legitimately obtained.

8. It was part of this conspiracy that from time to time the defendant BRIAN PETTIT travelled to meet his suppliers.

9. As a result of this conduct, the defendant BRIAN PETTIT sold illegally copied software, that, if it had been legitimate, would have had a retail value of more than \$300,000.

### OVERT ACTS

To further the conspiracy and to achieve its objects, the following overt acts were committed in the Eastern District of Pennsylvania and elsewhere:

#### Sales to A.L.

1. Between in or about July 1999 up to and including November 2000, the defendant BRIAN PETTIT sold to A.L., what purported to be valid software, but which was, in fact, counterfeit copies and received in return a total of approximately \$250,000.00.

2. On or about each of the dates below, the defendant BRIAN PETTIT received the following sums of money from A.L. to pay for counterfeit software which the defendant had sold to him (each payment constituting a separate overt act):

| DATE       | AMOUNT      |
|------------|-------------|
| 07/26/1999 | \$1,235.20  |
| 07/27/1999 | \$52,743.82 |
| 07/30/1999 | \$8,875.20  |
| 08/05/1999 | \$5,745.20  |
| 08/12/1999 | \$8,410.20  |
| 08/17/1999 | \$7,510.20  |
| 08/27/1999 | \$9,300.00  |
| 09/03/1999 | \$13,750.20 |
| 09/16/1999 | \$3,300.00  |
| 10/05/1999 | \$10,280.20 |
| 10/05/1999 | \$3,960.20  |
| 10/07/1999 | \$2,488.20  |

| DATE       | AMOUNT            |
|------------|-------------------|
| 10/22/1999 | \$5,860.20        |
| 10/29/1999 | \$7,100.00        |
| 11/04/1999 | \$4,225.20        |
| 11/09/1999 | \$1,490.20        |
| 11/18/1999 | \$5,812.20        |
| 11/18/1999 | \$5,812.20        |
| 11/19/1999 | \$1,530.20        |
| 11/24/1999 | \$9,160.20        |
| 12/03/1999 | \$17,760.20       |
| 12/08/1999 | \$6,480.20        |
| 12/17/1999 | \$13,340.20       |
| 12/27/1999 | \$1,891.20        |
| 12/27/1999 | \$1,891.20        |
| 01/12/2000 | \$7,430.20        |
| 01/12/2000 | \$8,225.20        |
| 02/07/2000 | \$2,769.20        |
| 02/07/2000 | \$2,769.20        |
| 02/23/2000 | \$8,320.20        |
| 03/01/2000 | \$1,615.20        |
| 03/01/2000 | \$1,615.20        |
| 04/17/2000 | \$3,266.20        |
| 04/25/2000 | <u>\$3,125.20</u> |
| TOTAL      | \$249,087.82      |

3. On or about December 13, 2000, the defendant BRIAN PETTIT shipped from Langhorne, PA, to A.L. what purported to be twenty-four Microsoft Office 97 Professional Edition CDs and four Windows NT Server Kits. These were, in fact, counterfeit copies of that software.

4. On or about January 3, 2001, an employee of the defendant BRIAN PETTIT at Energy Star Systems received and processed an order for 30 Microsoft Windows NT Server kits, for \$200 each, and eight Microsoft Windows 98 CDs, for \$55 each, for A.L.

5. On or about January 8, 2001, the defendant BRIAN PETTIT received and processed an order from A.L. for more Microsoft software.

6. Between on or about January 4, 2001 and on or about January 16, 2001, the defendant BRIAN PETTIT shipped from Langhorne, PA, to A.L. what purported to be thirty-six Microsoft Windows NT Server kits, for \$200 each, eight Microsoft Windows 98 CD's, for \$55 each, and forty Microsoft Office 97 CD's, for \$17 each. None of this software was legitimate Microsoft software, although it was marked with Microsoft trademarks. If the software had been legitimate, the retail price would have been approximately \$1,000 for each copy of Windows NT Server, \$209 for each copy of Windows 98 and \$599 for each copy of Office 97.

7. On or about June 7, 2001, the defendant BRIAN PETTIT shipped from Langhorne, PA, to A.L. what purported to be two Microsoft Project 98 CDs, for \$150 each, and six Microsoft Office 2000 CDs, for \$40 each. None of this software was legitimate Microsoft software, although it was marked with Microsoft trademarks. If the software had been legitimate, the retail

price would have been approximately \$499 for each copy of Project and \$599 for each copy of Office 2000.

Sales to Acetech

8. Between in or about January 2001 and on or about August 31, 2001, the defendant BRIAN PETTIT sold counterfeit software and counterfeit software licenses to Acetech, a company located in Upper St. Clair, Pennsylvania for the sum of approximately \$45,000.00.

9. Between on or about January 16, 2001 and on or about August 8, 2001, the defendant BRIAN PETTIT sold counterfeit software and software licenses to Acetech for the following amounts:

| DATE       | AMOUNT     |
|------------|------------|
| 01/16/2001 | \$2,504.00 |
| 01/22/2001 | \$534.00   |
| 01/31/2001 | \$98.00    |
| 02/08/2001 | \$762.00   |
| 02/13/2001 | \$300.00   |
| 02/19/2001 | \$504.00   |
| 02/21/2001 | \$5,100.00 |
| 02/22/2001 | \$89.00    |
| 02/22/2001 | \$395.00   |
| 03/08/2001 | \$150.00   |
| 03/09/2001 | \$285.00   |
| 03/22/2001 | \$328.00   |
| 03/23/2001 | \$117.00   |
| 03/27/2001 | \$182.00   |

| DATE       | AMOUNT          |
|------------|-----------------|
| 03/30/2001 | \$975.00        |
| 04/05/2001 | \$1,248.00      |
| 04/09/2001 | \$534.00        |
| 04/13/2001 | \$178.00        |
| 04/17/2001 | \$1,141.00      |
| 04/25/2001 | \$2,581.00      |
| 04/25/2001 | \$3,875.00      |
| 05/03/2001 | \$306.00        |
| 05/08/2001 | \$89.00         |
| 05/23/2001 | \$445.00        |
| 06/04/2001 | \$170.00        |
| 06/06/2001 | \$10,000.00     |
| 06/07/2001 | \$3,215.00      |
| 06/12/2001 | \$570.00        |
| 06/14/2001 | \$425.00        |
| 06/22/2001 | \$140.00        |
| 07/02/2001 | \$2,635.00      |
| 07/05/2001 | \$3,465.00      |
| 07/13/2001 | \$150.00        |
| 07/19/2001 | \$300.00        |
| 07/24/2001 | \$310.00        |
| 07/25/2001 | \$579.00        |
| 08/08/2001 | <u>\$600.00</u> |
| TOTAL      | \$45,279.00     |

Sales to F.A.

10. Between on or about May 8, 2000 and on or about February 12, 2001, the defendant BRIAN PETTIT sold counterfeit software to F.A. for which he was paid more than \$80,000.

11. On or about each of the dates below, the defendant BRIAN PETTIT received the following sums of money from F.A. to pay for the counterfeit software which the defendant had sold (each payment constituting a separate overt act):

| DATE       | AMOUNT     |
|------------|------------|
| 05/08/2000 | \$3,330.00 |
| 05/08/2000 | \$565.00   |
| 05/11/2000 | \$7,572.00 |
| 05/18/2000 | \$5,830.00 |
| 06/07/2000 | \$1,946.00 |
| 06/13/2000 | \$6,207.52 |
| 07/07/2000 | \$5,945.32 |
| 07/19/2000 | \$613.80   |
| 08/10/2000 | \$2,280.29 |
| 08/17/2000 | \$1,046.88 |
| 08/18/2000 | \$4,202.88 |
| 09/13/2000 | \$4,675.00 |
| 09/14/2000 | \$4,290.00 |
| 09/21/2000 | \$2,280.00 |
| 10/13/2000 | \$2,830.03 |
| 10/19/2000 | \$3,051.41 |

| DATE       | AMOUNT            |
|------------|-------------------|
| 10/25/2000 | \$4,580.92        |
| 10/28/2000 | \$1,903.28        |
| 11/30/2000 | \$4,879.14        |
| 12/11/2000 | \$4,278.43        |
| 12/13/2000 | \$3,442.55        |
| 02/06/2001 | \$1,261.91        |
| 02/07/2001 | \$1,239.08        |
| 02/12/2001 | <u>\$6,015.32</u> |
| TOTAL      | \$84,266.76       |

#### OTHER SALES

12. On or about September 13, 2002, the defendant BRIAN PETTIT sold two copies of what purported to be Norton Anti-Virus 2002, a software product manufactured by Symantec for \$29.99 each. None of this software was legitimate Symantec software, although it was marked with Symantec trademarks. If the software had been legitimate, the retail price would have been approximately \$50 each.

13. On or about September 19, 2002, the defendant BRIAN PETTIT in his store, Energy Star Systems, possessed 73 copies of counterfeit Microsoft and Symantec software, which would have been worth more than \$17,000, if they had been valid copies of what purported to be.

14. On or about April 25, 2003, the defendant BRIAN PETTIT sold the following items on E-Bay, an electronic auction bulletin board on the Internet for the following prices:

| SFTWARE                       | PRICE   |
|-------------------------------|---------|
| Microsoft Windows 98          | \$77.25 |
| MS Office 97 Pro Professional | \$45.00 |
| MS Office 97 Pro Professional | \$61.00 |

15. None of this software was legitimate Microsoft software, although it was marked with Microsoft trademarks.

16. If the software had been legitimate, the retail price would have been approximately \$209.00 for each copy of Windows 98 and \$599.00 for each copy of Office 97 Pro Professional.

All in violation of Title 18, United States Code, Section 371

COUNTS TWO THROUGH SEVEN

The grand jury further charges:

1. Paragraphs 1 and 2 of Count One are incorporated by reference.
2. Overt Acts 3 through 7 and 13 through 18 of Count One are incorporated by reference.
3. On or about each of the dates listed below (each date constituting a separate count of this indictment), in the Eastern District of Pennsylvania and elsewhere, the defendant

BRIAN PETTIT

intentionally trafficked and attempted to traffic in goods, that is Microsoft and Symantec software, and knowingly used counterfeit marks, that is the Microsoft brand and logo and the Symantec brand and logo, on and in connection with such goods.

| COUNT | DATE                               |
|-------|------------------------------------|
| 2     | December 13, 2000 (Microsoft only) |
| 3     | January 4, 2001 (Microsoft only)   |
| 4     | January 16, 2001 (Microsoft only)  |
| 5     | June 7, 2001 (Microsoft only)      |
| 6     | September 13, 2002 (Symantec only) |

| COUNT | DATE  |
|-------|---|
| 7     | September 19, 2002 (Microsoft and Symantec) |
| 8     | April 25, 2003 (Microsoft only)             |

In violation of Title 18, United States Code, Section 2320.

A TRUE BILL

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FOREPERSON

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PATRICK L. MEEHAN  
United States Attorney